

**United States Court of Appeals**  
**FOR THE EIGHTH CIRCUIT**

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No. 04-1771

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Herbert Karl Lennox,  
  
Appellant,  
  
v.  
  
Mid-America Car, Inc.,  
  
Appellee.

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\* Appeal from the United States  
\* District Court for the  
\* Western District of Missouri.  
\* [UNPUBLISHED]  
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Submitted: March 8, 2005  
Filed: March 11, 2005

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Before WOLLMAN, MURPHY, and BENTON, Circuit Judges.

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PER CURIAM.

Herbert Karl Lennox, who is African American, appeals the district court's<sup>1</sup> adverse grant of summary judgment in his employment-discrimination action. Lennox sued his former employer, Mid-America Car, Inc. (MAC), under 42 U.S.C. § 1981, claiming retaliation, a race-based hostile work environment, and constructive discharge.

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<sup>1</sup>The Honorable Ortrie D. Smith, United States District Judge for the Western District of Missouri.

Applying the law to the facts as summarized by the district court--which Lennox does not challenge--we agree with the district court that the incidents upon which Lennox relied were not sufficiently severe or pervasive to raise any trialworthy issues as to a race-based hostile work environment, see Burkett v. Glickman, 327 F.3d 658, 662 (8th Cir. 2003); that the record did not support a constructive-discharge claim, see Breeding v. Arthur J. Gallagher & Co., 164 F.3d 1151, 1159 (8th Cir. 1999); and that Lennox failed to show that MAC's nonretaliatory reason for demoting him was pretextual, see Grey v. City of Oak Grove, 396 F.3d 1031, 1034 (8th Cir. 2005). We decline to consider Lennox's newly raised assertion about the failure to provide him training or education. See Stone v. Harry, 364 F.3d 912, 914 (8th Cir. 2004).

Accordingly, we affirm.<sup>2</sup> See 8th Cir. R. 47B.

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<sup>2</sup>Lennox has waived his other claims on appeal. See Harris v. Folk Constr. Co., 138 F.3d 365, 366-67 n.1 (8th Cir. 1998).